

1 IN THE UNITED STATES DISTRICT COURT

2 DISTRICT OF UTAH

3 CENTRAL DIVISION

4
5 UNITED STATES OF AMERICA,)

6 Plaintiff,)

7 vs.)

Case No. 2:16-CR-631DAK

8 AARON MICHAEL SHAMO,)

9 Defendant.)

10 _____)

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12
13 BEFORE THE HONORABLE DALE A. KIMBALL

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15 May 17, 2019

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17 Status Conference on Pretrial and Trial Issues

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A P P E A R A N C E S

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1 May 17, 2019

11:00 p.m.

2 P R O C E E D I N G S

3
4 THE COURT: We're here this morning in the matter
5 of the United States of America versus Aaron Shamo,
6 2:16-CR-631. The United States is represented by
7 Mr. Michael Gadd, Mr. Vernon Stejskal and Mr. Kent
8 Burggraaf. The defendant is not present and is not required
9 to be present and is represented by Mr. Gregory Skordas and
10 Ms. Kaytlin Beckett.

11 Correct?

12 MR. SKORDAS: Yes, Your Honor.

13 THE COURT: All right. Thank you for being here.

14 First I want to talk about the length of the
15 trial. It seems to me that 23 days would be plenty of time
16 to put on this evidence to get this case tried. That is
17 five weeks minus the 4th and 5th of July.

18 Here is how I see it. On the first day, and that
19 is the 17th of June, we would pick a jury and have opening
20 statements, limited to an hour and a half and shorter would
21 probably be plenty of time enough, but you can have an hour
22 and a half each.

23 The last day would be instructions and closing
24 arguments. Again, an hour and a half ought to be enough.
25 That leaves 21 days for evidence. The government has the

1 burden so I will give them 11 and you can have ten. No
2 cross-examination -- I have never done this before, but I
3 can see this trial lasting all summer and I don't have all
4 summer. No cross-examination will be longer than the direct
5 except under extraordinary circumstances.

6 Now, decide which witnesses you really need and
7 which ones you really want to call. I run an 8:30 to 2:00
8 or 2:30 day. There will be a couple of days when we can
9 probably go all day. Now, if there is something
10 extraordinary that happens and you can convince me that we
11 actually need more time, I will at least consider it.

12 Let's see.

13 MR. SKORDAS: What we're talking about, Your
14 Honor, and I think you'll be pleased --

15 THE COURT: I like to be pleased.

16 MR. SKORDAS: -- is that the defense's case does
17 not require ten days.

18 THE COURT: How many days do you require?

19 MR. SKORDAS: I am offering him one or two of our
20 days.

21 THE COURT: I am pleased. You're right.

22 MR. SKORDAS: Michael is suggesting that maybe he
23 can do his case in 12 days.

24 MR. GADD: Yes. Our last witness is a medical
25 doctor that works an E.R. schedule and teaches and so we

1 scheduled her about four months in advance and she is
2 planning on July 3rd.

3 THE COURT: Is that the 12th day?

4 MR. GADD: I believe the 12th, yes.

5 THE COURT: Well, you can trade days, too, if you
6 need to on witnesses. Okay. That will work.

7 I am pleased, Mr. Skordas.

8 MR. GADD: I deeply appreciate it and we will be
9 done on the 3rd.

10 THE COURT: That gives you, what, eight or nine
11 days?

12 MR. SKORDAS: Yes. We can do our case in five or
13 six days, guaranteed.

14 THE COURT: I am even more pleased. All right.

15 Let's see here. Do we need alternate jurors?

16 MR. GADD: Yes, please.

17 THE COURT: I can go down I think to 11. If we
18 only had 12 and somebody got run over during the trial I
19 could go to 11. I don't think I can go below 11 in a
20 criminal case.

21 Do you want one or two alternates?

22 MR. SKORDAS: I think one is plenty, but I will
23 leave it up to the state.

24 MR. GADD: The risk --

25 THE COURT: The United States. You said the

1 state.

2 MR. SKORDAS: I am in the wrong building. I
3 apologize.

4 MR. GADD: Mr. Burggraaf and I understood exactly
5 what he meant because we are employed by the state. The
6 risk adverse side of the room wonders if we could have two
7 alternates.

8 THE COURT: Sure.

9 MR. SKORDAS: That is fine.

10 THE COURT: So that means we start with a base of
11 30, because you have six preemptories and, Mr. Skordas, you
12 have ten, so that is 16 and 14, 30, and we're getting, what,
13 75 or so?

14 THE CLERK: 75.

15 THE COURT: That ought to be doable.

16 All right. What about witness exclusion?

17 MR. SKORDAS: We're going to ask that the Court
18 invoke the exclusionary rule. I assume the government will
19 also.

20 MR. GADD: We do. There may be some exceptions
21 that we can work out now, but --

22 THE COURT: What about experts?

23 MR. GADD: We would like to keep our experts in
24 and case agents. I know the defense has put Mr. Shamo's
25 parents on their list and, of course, we won't object if

1 they stay in for the trial.

2 THE COURT: And your experts. Usually we leave
3 experts in.

4 MR. SKORDAS: Yes. That is fine.

5 THE COURT: And the parents?

6 MR. GADD: I can't tell the parents not to come.
7 I think they should be allowed to stay.

8 THE COURT: Witness exclusion except for the
9 defendant's parents and your experts and witness exclusion
10 except for your case agent and experts.

11 MR. GADD: Thank you, sir.

12 THE COURT: The defendant wants to wear a suit,
13 which he can do at trial, but, otherwise, no, because
14 without a jury he does not need a suit and it just causes
15 problems for the marshals.

16 MR. SKORDAS: Agreed.

17 THE COURT: Now, have you seen the government's
18 exhibit list?

19 MR. SKORDAS: Yes.

20 THE COURT: That is the kind of exhibit list we
21 need from you.

22 MR. SKORDAS: Very well.

23 THE COURT: Can you get it within a week?

24 MS. BECKETT: I believe Mr. Sam and I were working
25 on that and we thought we could have it by the 24th, Your

1 Honor.

2 THE COURT: All right. Good.

3 Now, I need you to take a shot, each of you, at a
4 summary of the indictment. Not long after I came over here
5 a very experienced assistant U.S. attorney told me that I
6 had to read the entire indictment. I was happy to find out
7 that he was not very often wrong but he was wrong about
8 that. I don't have to.

9 That was Wayne Dance if you're curious. Mr. Dance
10 was a very good lawyer and like a judge he always thought he
11 was right, but he was not right about that.

12 I would like a summary of the indictment that I
13 can read in five to seven minutes and you can each give me
14 one or you can agree on one. If you each give me one, I
15 will pick the one I like or amalgamate them. I am talking
16 about what I read to the jury as part of the voir dire.
17 That is what I'm talking about.

18 MR. SKORDAS: I think that would be very easy to
19 get done. I think the government can provide a copy and
20 we'll look it over.

21 THE COURT: Good enough.

22 Now, some of these motions I think I can rule on.
23 Let's talk for a minute about this potential sentence. What
24 is it you really want to do, Mr. Skordas, with respect to
25 talking about sentencing, possible sentences?

1 MS. BECKETT: Your Honor, I can speak to that a
2 little bit.

3 THE COURT: All right.

4 MS. BECKETT: I think the government's original
5 motion kind of misconstrues what we are trying to do.
6 Obviously we don't want to tell the jury and we know we are
7 barred from telling the jury that there is a mandatory life
8 sentence for Mr. Shamo, that there is the potential for
9 that, but what we do want to be able to address is that
10 there is a significant disparity, given the conduct of
11 specifically Mr. Crandall and Mr. Paz, and the
12 acknowledgments that have been made by the government in
13 terms of what their conduct is and how it relates to Mr.
14 Shamo's conduct, and because they will be called as
15 witnesses, we think we are entitled to address their role
16 and the plea agreements that are very favorable to them,
17 that have been offered to them in terms of bias and
18 motivation to limit what they are saying their role was.

19 THE COURT: You're certainly entitled to do the
20 last two things. You are entitled to cross-examine them on
21 their role and you're entitled to cross-examine them about
22 bias and you're entitled to cross-examine them on what they
23 expect and if they are getting anything for their testimony.

24 Anything else you want to tell me?

25 MS. BECKETT: That was our main concern. They

1 have not obviously been sentenced and we would like to be
2 able to ask them whether or not they -- that their
3 understanding is that they will be sentenced after Mr. Shamo
4 is sentenced, if he is in fact sentenced, because that is
5 our understanding that the government's intention is to
6 raise their potential sentences based on the sentence they
7 believe they can get on Mr. Shamo.

8 Without really going down the road of what Mr.
9 Shamo is looking at, we do want to be able to address that
10 their sentencing has been delayed, and specifically in Mr.
11 Paz's situation, that he has been out on pretrial release
12 the entire time despite the fact that his conduct is similar
13 to Mr. Shamo's and possibly even more egregious in our
14 opinion.

15 THE COURT: Thank you.

16 What do you say to that?

17 MR. GADD: I don't believe the Court or the
18 defense has had a chance to see it, but we replied to their
19 response just maybe 30 minutes ago. The Court picked up
20 quickly that --

21 THE COURT: I am quick, but not that quick.

22 MR. GADD: No. Maybe it makes sense to take what
23 we say here under advisement and then have a chance to look
24 at it. So just now the Court recognized that some of the
25 things Ms. Beckett was talking about are permissible areas

1 of inquiry and argument and others are not. As I looked
2 through their response to my initial motion, I saw two
3 categories, things permissible and not permissible, so I
4 tried in the reply to break them down into categories. I
5 think --

6 THE COURT: We'll look at that and then I will
7 rule later on on it.

8 MR. GADD: Thank you.

9 THE COURT: All right. We have talked about the
10 exhibit list.

11 Now, on these experts we have a motion to strike
12 Shafto, a motion to strike Haddix, and they are not briefed
13 yet fully, a motion to strike Wheeler and a request for a
14 Daubert hearing. Do we need Daubert hearings on Shafto or
15 Haddix or can I rule on the briefs when I get them?

16 MR. GADD: We don't feel like we know what their
17 opinions are or the basis, so we just can't say whether or
18 not we would like to request one until we find out what are
19 they actually going to testify to. What are they going to
20 say? How do they arrive at those opinions?

21 THE COURT: All right. Which one of you wants to
22 give me a minute on that?

23 MS. BECKETT: So I think part of this is it has
24 been pretty clear in the notices that we did provide Your
25 Honor that I think --

1 THE COURT: Clear what?

2 MS. BECKETT: Ms. Haddix's testimony will deal
3 specifically with the death resulting count and the
4 conclusions made by the government's expert and the basis
5 for those opinions. It is going to address those. I think
6 that was pretty clear in our notice. We have not received a
7 report from her.

8 I do not believe a Daubert hearing would be of any
9 value on Ms. Shafto. Her opinion is going to be based on
10 the general background of the investigation. She was a
11 narcotics officer for Unified P.D. and very recently retired
12 and I think, again, her notice was very clear in what her
13 testimony would entail. She does not plan to provide
14 specifically a report.

15 In terms of Mr. Wheeler, I may want to have a
16 further discussion with Mr. Gadd about this as to what they
17 are actually requesting the Daubert hearing on before we
18 need to schedule that.

19 THE COURT: All right. Now, what do you folks
20 envision about what we will be doing on the three days that
21 you asked for in hearings at the end of May? I suppose we
22 could use part of it for any Daubert hearing that we needed,
23 right?

24 MR. SKORDAS: Yes.

25 THE COURT: Okay. What else?

1 MR. GADD: Your Honor, I have been telling my
2 potential witnesses for the hearing that if they are in
3 state we will likely call them on the 29th, and if they are
4 out of state we'll call them on the 30th. My hope was to
5 save open the 31st for oral argument on motions or a Daubert
6 hearing or things of that nature.

7 I have given the Court and the defense a copy of
8 our proposed exhibits. I just wanted to briefly talk about
9 the highlighting in it in answer to the Court's most recent
10 question. Some of the highlighting, like on the first page
11 you can see yellow.

12 THE COURT: Yes.

13 MR. GADD: That is stuff I would like to address
14 later in the hearing. As you flip through, for example, on
15 page 8 --

16 THE COURT: Eight?

17 MR. GADD: Starting on page 8 there is some very
18 light green highlighting.

19 THE COURT: I see it.

20 MR. GADD: And then more so on page 9, quite a bit
21 on page 9 and a fair amount on page 10 and then all of page
22 11. The green highlighted exhibits are the exhibits that
23 the defense has objected to. We went with not just their
24 most recent motions, but the motions filed last November and
25 December, and --

1 THE COURT: The light green highlights are
2 objected to?

3 MR. GADD: Yes, Your Honor.

4 Your Honor gave us an order at the beginning of
5 April saying any party challenging an exhibit as
6 inadmissible at the preadmission hearing must make a
7 specific written objection to the exhibit and submit the
8 objection as part of a motion in limine and in accordance
9 with the motion in limine deadlines. Those have been
10 objected to and we will be prepared to put on the foundation
11 and then we can argue about the objections.

12 THE COURT: The rest are not objected to; is that
13 correct?

14 MR. SKORDAS: That is correct.

15 THE COURT: Thank you for that.

16 MR. GADD: We're hopefully narrowing it down some.

17 THE COURT: Good.

18 MR. GADD: My request would be, since they have
19 not been objected to, that the Court admit the other
20 exhibits so I can call off those witnesses and we can focus
21 just on the exhibits that they take issue with.

22 THE COURT: That makes sense to me.

23 MR. SKORDAS: And to us, Your Honor.

24 THE COURT: So the unobjected to exhibits in the
25 government's exhibit list are admitted and they will be

1 admitted into evidence and the ones that we have a question
2 about are the ones outlined in light green.

3 MR. GADD: Yes, Your Honor.

4 THE COURT: All right.

5 MR. SKORDAS: Well, I guess they are admitted in
6 terms of foundation. We won't have a foundation objection,
7 but if we have -- I don't know that we would, but if there
8 is some relevancy issue based on how the evidence is
9 presented, we would like to preserve that.

10 THE COURT: I understand that.

11 MR. SKORDAS: We were trying to save the Court a
12 bunch of foundation witnesses.

13 THE COURT: That pleases me, too. Foundation,
14 that is important to get out of the way.

15 MR. GADD: Sure. I think that is fair. If we are
16 three days into the hearing and I put up an exhibit and they
17 say, wait a minute, that is 404(b). I think that is a fair
18 argument for them to make at that point.

19 THE COURT: So the three days will be foundation
20 on the objected to exhibits --

21 MR. GADD: Yes, Your Honor.

22 THE COURT: -- and any Daubert hearings that we
23 need?

24 MR. SKORDAS: Correct.

25 THE COURT: Right?

1 MR. GADD: Yes, Your Honor.

2 THE COURT: All right.

3 Do you have any more questions about that?

4 THE CLERK: No.

5 MR. SKORDAS: It won't take three days, Your
6 Honor.

7 MR. GADD: I agree. Because we have already
8 started scheduling flights and things, and since more of my
9 witnesses are from out of state than in state, I wonder if
10 we could just start on the morning of those three days and
11 work until we are done and then maybe pick it up the next
12 morning rather than change all of the flights?

13 THE COURT: Yes, that is fine.

14 MR. SKORDAS: Yes, that is fine.

15 THE COURT: That makes sense.

16 Now, it seems to me that the proffer on the James
17 hearing is more than sufficient. I don't see any necessity
18 for a James hearing.

19 Do you want to put something on the record to
20 preserve an objection on that? I mean, I have had a few
21 James hearings over the years and I have held a few times
22 that the proffer was sufficient and that I didn't need it.

23 MR. SKORDAS: We're fine with that, Your Honor.

24 THE COURT: All right.

25 Now, motion 171, excluding, and motion 202, they

1 are part of the light green stuff, right?

2 MR. GADD: I am afraid I will have to pull up the
3 docket quickly, but I believe yes. We took motions from
4 last year and this year and tried to make sure we captured
5 all of them in that light green highlight.

6 THE COURT: Now, with respect to the three
7 customers or three people -- I guess I don't know whether
8 they are customers or not -- the three people who are dead,
9 the government does not claim that the defendant has any
10 responsibility for those three people as I understand it.

11 Right?

12 MR. SKORDAS: Correct.

13 THE COURT: But I think they are entitled to
14 explain why they are not calling them so it does not look
15 like they had a witness they could call and they didn't.

16 MS. BECKETT: I think we would agree with that and
17 we have not filed our final reply brief on that, but the
18 concern there is still mentioning it as an overdose death
19 itself. I think saying that they are unavailable is fine,
20 but in the context of a case that deals with a death
21 resulting count, I think it leads to the potential for a
22 very improper inference, even with a limiting instruction if
23 we discuss it as an overdose death.

24 THE COURT: It is okay in your view to say that
25 they are dead and they can't testify because they are dead,

1 but not to refer to it as an overdose death?

2 MR. SKORDAS: That would be our request, yes, Your
3 Honor.

4 THE COURT: What is wrong with that?

5 MR. GADD: Nothing. We'll do that.

6 THE COURT: All right. I guess I could say that
7 the government is not claiming, with respect to these
8 deaths, that the defendant has any responsibility for them.
9 You're not claiming --

10 MR. GADD: We are not.

11 THE COURT: Now, these pictures -- it is not fully
12 briefed yet, is it? I will think about that some more. Why
13 do you really need pictures? You have got testimony about
14 what happened and where everything was and who did what.

15 MR. GADD: So for these three pictures, and we
16 really worked hard to narrow it down to just three, because
17 no one wants to look at pictures of deceased people and I
18 understand that.

19 The close-up of his face is integral to the
20 testimony of our E.R. doctor that I mentioned. She studies
21 and teaches on forensic pathology as it relates to which
22 drug killed them and why. So, for example, if someone dies
23 of a cocaine overdose, they won't look like the face in that
24 picture. It is going to be different. She is going to look
25 for different physiological clues.

1 The picture is a textbook opioid overdose and it
2 has to deal with opioids being a central nervous system
3 depressant and how the respiratory system starts to shut
4 down and it creates blood and mucus as their body is
5 fighting for air. It is integral to her testimony. This is
6 how she will teach the jury how they can know beyond a
7 reasonable doubt that it was an opioid, not any of the other
8 drugs on board that --

9 THE COURT: You seek three pictures, not just one,
10 right?

11 MR. GADD: The close-up of his face and then the
12 second is his deceased body on the ground next to his bed.
13 That one is important to me because people frequently die
14 from opioid overdoses asleep. In fact, he died in his bed,
15 but the picture we have, from the police officers who showed
16 up on the scene, shows him on the floor. We just need that
17 picture to be able to explain that while he was found on his
18 bed face down in a pool of blood, he was moved by the
19 paramedics off of the bed, and you can see the two points
20 where they tried to shock his heart.

21 Then the third picture only shows his legs and
22 that picture shows spacial proximity. The battery, it is
23 like a large lithium battery, the battery he used to crush
24 up the pills, and I call it a tube straw, and I hope that is
25 the right name. It is a Post-It note that he has rolled up,

1 so the Post-It note that he used to sniff the pills and the
2 package that the pills came in are all in that picture. It
3 shows just how close -- one of the issues we're going to
4 have at trial is did he really take Mr. Shamo's pills that
5 night or did the pills come from somewhere else? The
6 spacial proximity between his dead body and the package from
7 Mr. Shamo's coconspirators, where they are maybe two feet
8 away, that will be some of our best and most important
9 evidence.

10 THE COURT: Thank you.

11 Ms. Beckett?

12 MS. BECKETT: I have multiple concerns with that,
13 Your Honor. I think there is other evidence that we cited
14 in our brief that deals with the causational issue there. I
15 think part of that causational issue will outweigh the
16 probative value of those photos.

17 In terms of the medical information, those photos
18 were not specifically taken by that doctor. There are
19 reports that she has obviously relied on, and that she can
20 say she relied on, that talk about the contents of those
21 photos and what was found when this individual died. I
22 think that that is enough to establish those elements of her
23 testimony without bringing those particular photos in.

24 In terms of the other two photos, the proximity
25 argument does not -- I don't think that that is even

1 remotely relevant to what we're dealing with. I say that
2 based on the information just proffered by Mr. Gadd, which
3 is if his body was moved, as they are acknowledging, then
4 the proximity issue does not really make sense in that
5 argument. In one photo they are saying he was moved but in
6 another photo they are saying it is in approximation to
7 where these items were. I don't think that that holds up.
8 I think that they are putting individuals on who can testify
9 or they believe can testify to those issues without the
10 presence of those photos, and I think we run a very serious,
11 serious risk of that improper inference if we are to show a
12 jury those photos with the limited amount of causational
13 evidence in terms of the actual drugs that were snorted and
14 the history of the individual who did in fact overdose,
15 which are some issues that we intend to cross-examine and
16 bring up during the trial.

17 THE COURT: Thank you both. I won't rule on that
18 yet. There is still another brief to come in on that, I
19 believe.

20 MS. BECKETT: Correct, Your Honor.

21 THE COURT: All right. Let's see here.

22 When are they supposed to file with the court the
23 list of exhibits? Is it the morning of trial?

24 THE CLERK: We already took care of that.

25 THE COURT: What about notifying each other about

1 who you're going to call a reasonable amount of time in
2 advance. Have you agreed on that?

3 MR. GADD: I don't believe it was objected to.

4 THE COURT: Is it the day before by 4:00? Is that
5 what it was?

6 MR. GADD: Yes, Your Honor. We're real flexible
7 on the time.

8 THE COURT: Excuse me?

9 MR. GADD: I apologize. We are flexible on the
10 time. If 4:00 does not work, we're happy to do it earlier
11 or later.

12 MR. SKORDAS: That is fine. 4:00 is fine.

13 THE COURT: What else do we need to talk about
14 today?

15 MR. GADD: The Court's trial order directs the
16 United States and the defense to provide paper copies of our
17 exhibits. In this case that will be thousands of pages and
18 then we'll still have some exhibits that you can't turn into
19 paper like videos and audio recordings. I wonder if the
20 Court would allow us to instead provide it electronically to
21 the Court?

22 THE CLERK: That is fine with me.

23 THE COURT: Yes. If it is fine with them, it is
24 fine with me.

25 MR. SKORDAS: That is fine with us, too.

1 MR. GADD: I have a copy today and I'm happy to
2 give you now as you are considering the motions, for
3 example, and then on the morning of court we'll bring in
4 official copies and --

5 THE COURT: Sure. We'll take what we can get.
6 Give it to Ms. Toscano.

7 Anything else?

8 MR. GADD: It is the disk that you got.

9 THE COURT: Apparently you have it.

10 MR. SKORDAS: We have it.

11 THE COURT: Anything else anybody wants to talk
12 about?

13 MR. GADD: Please. On the same exhibit list I
14 have this yellow highlighting on the front --

15 THE COURT: Yes.

16 MR. GADD: -- and the yellow highlighted exhibits
17 are powder, and in almost every case they are powder
18 Fentanyl. There is a huge risk with undiluted powder
19 Fentanyl. It is a low-grade chemical weapon. I have been
20 talking with our Ph.D. chemist at the lab about safety and
21 security. They are very concerned about having powder come
22 into a courtroom as am I and as I believe the marshals'
23 service is.

24 When we were speaking in here before Your Honor
25 took the bench this morning, I think we came to a tentative

1 agreement that rather than bring powder into the courtroom,
2 or even bring powder off-site and let the jurors go on a
3 field trip and see the powder under a vented hood, that the
4 defense is going to allow our lab folks to take a picture of
5 these highlighted exhibits and we'll use a picture rather
6 than the actual powder.

7 THE COURT: That sure makes sense, doesn't it?

8 MR. SKORDAS: Yes, we agree with that.

9 THE COURT: If you do decide to bring any powder
10 in, keep it as far away from the bench as you can.

11 MR. GADD: We are going to have the encapsulated
12 pills, so when you think about a single pill, less than
13 one-hundredth of a part of it is Fentanyl. The rest of it
14 is binders and fillers and colors and things like that and
15 it is encapsulated.

16 Not only is the pill encapsulated but it is in two
17 evidence bags, and then as I have been talking with these
18 same folks at the lab, they have asked me to put it in some
19 sort of clear case, so we have ordered -- they are almost
20 like clear Rubbermaid totes that have a sealable lid.

21 My request on the tablets is that we only have the
22 D.E.A. personnel handle them. So, for example, if Mr.
23 Skordas is on cross-examination and he wants to ask a
24 witness about Exhibit 9.01, he could look at our D.E.A.
25 agent and say would you grab 901? Then he will pull it out

1 of the bin and hold it up and show the jurors, but he will
2 wear protective gloves just to be careful, and that way we
3 can ensure everyone's safety. The pills are not in the same
4 class as the powder. It would be like most of the drugs
5 that come into this courtroom.

6 THE COURT: Mr. Skordas.

7 MR. SKORDAS: We have no interest in handling
8 Fentanyl. We are fine with that.

9 THE COURT: You're happy to have the gloved people
10 handle it?

11 MR. SKORDAS: Yes, the professionals.

12 MR. GADD: That will be our D.E.A. case agent or
13 if we have other D.E.A. agents here and, for example, if the
14 case agent were on the stand we -- we will also have the
15 chemist from the lab. I doubt they will want to handle
16 things much -- we may hand them a copy of their test
17 results, and they may want to just quickly reference the bag
18 and say, yes, my numbers match up and these are the pills I
19 tested.

20 I am not sure that we need to discuss it now
21 necessarily, but since we are on the topic, I would prefer
22 not to send the pills back to the jury.

23 MR. SKORDAS: Absolutely.

24 MR. GADD: Okay.

25 THE COURT: That seems to make sense. So in this

1 case they will get most of the exhibits but not all of them.

2 Anything else?

3 MR. SKORDAS: You could give the jury a photograph
4 or something if you want, but I --

5 THE COURT: Yes, you could.

6 MR. SKORDAS: I don't think that makes a
7 difference.

8 MR. GADD: They will have 21 days with them and
9 I'm happy to take a picture.

10 THE COURT: Maybe you should. Maybe you should
11 take a picture and send that back.

12 MR. GADD: Perhaps when we have it in court the
13 first day lined up, we'll take a picture then and show the
14 defense, and if they are comfortable with it, that is what
15 we'll send back.

16 THE COURT: Anything else, Mr. Skordas or Ms.
17 Beckett?

18 MR. SKORDAS: No, Your Honor. Thank you.

19 THE COURT: Anything else from the government?

20 MR. GADD: No, Your Honor. Thank you very much.

21 THE COURT: Thank you all for coming in. I know
22 this is an enormous amount of work and I appreciate your
23 moving it along.

24 Thank you.

25 We'll be in recess.

(Proceedings concluded.)